

COUNCIL PROCEEDINGS

Tuesday, November 8, 2011

AGENDA

1. **CALL TO ORDER AND ROLL CALL**

Mayor Osborne called the regular November 8, 2011 City Council meeting to order at 6:08 p.m. in Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

Commissioner Will Toor spoke on behalf of the County and acknowledged Mayor Osborne and Council Member Gray for their years of service to the community.

A. **Colorado Oceans Coalition Declaration.**

Mayor Osborne read a declaration honoring the Colorado Oceans Coalition and declared November 8 as Ocean Awareness Day.

B. **Presentation of ICLEI Declaration: City of Boulder selected as founding member of the EcoMobility Alliance.**

Transportation Director Tracy Winfree, who just returned from the ICLEI conference in Korea, spoke to Boulder being invited to be a founding member of the EcoMobility Alliance and read a declaration congratulating Boulder as one of the founding members.

C. **Declaration honoring Mayor Susan M. Osborne.**

Deputy Mayor Wilson read a declaration honoring Mayor Susan Osborne for her service to the community and declared Thursday, November 10 as Susan Osborne Day in the City of Boulder.

D. **Declaration honoring Council Member Crystal Gray.**

Mayor Osborne read a declaration honoring Council Member Crystal Gray for her service to the community and declared Friday, November 11 as Crystal Gray Day in the City of Boulder.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** – 6:20 p.m.

1. Brenda Lee spoke to bears and trash in Boulder around enforcement needs and requested a stricter ordinance for bear proof containers.
2. Tiffany O'Meara echoed the previous speakers' comments about the problem with trash in Boulder and urged stricter enforcement for bear proof containers.
3. Sophie Ottinger also spoke in support of stricter enforcement for bear proof containers.
4. Richard Demuth spoke regarding vehicular violations and unlit license plates.
5. Stephen Keenan spoke to the passage of 2B and 2C and to the visit of the Israeli ambassador.
6. Hugh Walton spoke to the 1175 Lee Hill Drive proposal from BHP for Boulder homeless housing.

7. Members of the Earth Guardians thanked Mayor Osborne and Council for its support.

City Manager Response:

None.

City Attorney Response:

None.

3. **CONSENT AGENDA: - 6:45 p.m.**

- A. **CONSIDERATION OF A MOTION TO APPROVE THE SEPTEMBER 20, 2011 COUNCIL MEETING MINUTES.**
- B. **CONSIDERATION OF A MOTION TO APPROVE THE OCTOBER 4, 2011 COUNCIL MEETING MINUTES.**
- C. **CONSIDERATION OF MOTION(S) TO (A) RENEW THE EMPLOYMENT AGREEMENT OF BOULDER MUNICIPAL COURT ASSOCIATE JUDGE JEFFREY CAHN; AND (B) AWARD 1.0% MERIT INCREASE TO ASSOCIATE JUDGE CAHN.**
- D. **CONSIDERATION OF A MOTION TO REMOVE SCOT WOOLLEY FROM THE ENVIRONMENTAL ADVISORY BOARD FOR NONATTENDANCE AND DECLARE THE SEAT VACANT.**
- E. **CONSIDERATION OF A MOTION CONCERNING THE FOUR MILE CONNECTOR TRAIL IN THE WEST TRAIL STUDY AREA.**
- F. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7821 PERTAINING TO THE APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF COLORADO AND THE CITY OF BOULDER RELATING TO WETLAND MITIGATION GENERALLY LOCATED IN THE AREA OF THE CONFLUENCE OF BOULDER CREEK AND SOUTH BOULDER CREEK FOR THE U.S. 36 CORRIDOR IMPROVEMENT PROJECT.**
- G. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 110, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7795, 7809, 7813, AND 7814 AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981.**

Council Member Morzel moved, seconded by Becker to approve consent agenda items 3A through 3G with item 3D removed from the agenda and item 3E pulled to be considered later as a public hearing. The motion carried unanimously 9:0. - 6:55 p.m.

4. **POTENTIAL CALL- UP CHECK IN: - 6:56 p.m.**

No interest was expressed.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS:**

A. **CONSIDERATION OF A MOTION TO EXPAND THE FOREST GLEN (ECO PASS) GENERAL IMPROVEMENT DISTRICT. – 6:57 P.M.**

Chris Hagelin, Senior Transportation Planner provided the presentation on the item.

Council Member Cowles suggested staff should look into the citywide Ecopass program in preparation for the retreat in January. Mr. Hagelin indicated that the rollout of the RTD Smartpass program may provide other opportunities for a citywide program.

Deputy Mayor Wilson asked what the current total city subsidy was for the Forest Glen Ecopass program. This number wasn't immediately available. The total city subsidy for all residential Ecopasses was approximately \$215,000 annually.

Council Member Appelbaum suggested a more complete analysis to determine how to get to a citywide program as some neighborhoods received subsidies and others did not. Where would the subsidies come from and how is equity reached?

Mayor Osborne commented that the Energy Smart programs were an example of how a subsidized program could work.

Council Member Karakehian reminded his colleagues that the Downtown Ecopass program had found a way to support its program via parking meters. The program worked but the city would have to find a way to pay for it.

Council Member Gray indicated she had gone to the neighborhood meeting and there was a lot of interest in the Ecopass program.

Deputy Mayor Wilson commented that along with the equity issue, the University Hill had an issue with students and they subsidized Ecopasses for neighborhoods where it does work. This needed to be viewed globally.

The public hearing was opened at 7:11 p.m.

1. Dick Harris commented he was thrilled with the idea of a citywide Ecopass program.

There being no further speakers the public hearing was closed.

By acclamation Council adjourned from City Council and convened as the Forest Glen General Improvement District Board of Directors.

Council Member Gray moved, seconded by Ageton to approve the addition of thirteen properties to the Forest Gen (Eco Pass) General Improvement District. The motion carried unanimously 9:0 at 7:13 p.m.

By acclamation Council adjourned from the Forest Glen General Improvement District Board of Directors and reconvened as City Council.

B. CONSIDERATION OF A MOTION GRANTING THE CITY MANAGER AUTHORITY TO APPROVE (A) A DEVELOPMENT AGREEMENT AND LEASE FOR THE CITY-OWNED HISTORIC DEPOT, AND (B) THE CONVEYANCE OF PROPERTY INTO THE PROPOSED CONDOMINIUM ASSOCIATION AT DEPOT SQUARE, INCLUDING TERMS IMPLEMENTING THE PROVISIONS AND GUIDING PRINCIPLES IDENTIFIED BY COUNCIL, RELATED TO THE 8.1-ACRE CITY-OWNED SITE IN BOULDER JUNCTION KNOWN AS THE "BOULDER TRANSIT VILLAGE." – 7:14 P.M.

City Manager Brautigam provided an introduction to the item.

Senior Transportation Planner Randall Rutsch provided some background on the Boulder Transit Village project. An agenda item to amend the connections plan for the Transit Village Area Plan would come forward to Council separately in January.

The Depot Square project included an underground bus based transit facility, 390 space parking garage, 71 units of affordable housing, a hotel and meeting space, renovation of the depot and a plaza and public art. The depot rehabilitation company (PDC) would put approximately \$1 million into the rehabilitation and would rehab it to its original form. The depot lease principles included a rehabilitation agreement and a 20-year lease to recover the investment and sub lease at market rates. The PDC would be responsible for all utilities and maintenance. The city would not try to recover capital costs as it was a long term asset to the city. The development agreement would require the work to be completed per approved plans and allowed PDC to improve the interior of the Depot for commercial purposes. Mr. Rutsch then detailed the lease provisions including active uses, parking, maintenance and the basement would be utilized by the City if not used by the tenant.

Regarding condominium ownership, Mr. Rutsch showed a map of how the facility would look with the variety of uses. He detailed the condominium ownership guiding principles which allowed the city to maintain control and preserve future use of the Depot. The Plaza would be available for public use and guiding principles were also outlined for that area.

Next steps included negotiations of the agreements followed by City Manager approval. A January agenda item would come forward to discuss the GID and a study session on April 10 to discuss the Pollard motors site.

Council Member Appelbaum spoke to the affordable housing component and wondered if anyone had thought about whether the affordability was being appropriately spread out

(i.e. the building across the street had no affordable housing). Susan Richstone responded that the 71 units were satisfying the inclusionary housing aspect for this location/project. In light of the limitations with rental projects, this was seen as a good compromise.

Council Member Ageton asked about the lease provisions on page 13, number 6 and asked what other costs associated with the common area may be city costs.

Kathy Haddock noted the costs for the common area were included on page 10 as part of the condominium agreement and the city would maintain any responsibility the city had as an owner. Understanding the additional costs not included in the lease would be useful in the future.

Council Member Karakehian clarified that this would be similar to what was done at the St. Julian.

Mayor Osborne was initially concerned about preservation of the Depot and spoke to Dan Corson, with the State Historic Society, who indicated grant funding from the state was near impossible. She came out of the conversation feeling good about the project.

Council Member Gray moved, seconded by Osborne to authorize the city manager to enter into (a) a development agreement and lease for the city-owned Historic Depot substantially consistent with the provisions set forth in Attachment A, and (b) the conveyance of property into the proposed condominium association at Depot Square including terms implementing the provisions and guiding principles set forth in Attachment B, related to the 8.1 acre city-owned site in Boulder Junction known as the "Boulder Transit Village." The motion carried unanimously 9:0. 7:46 p.m.

Council Member Karakehian gave a brief overview of history associated with the historic depot and provided a set of the original plans and photos to city staff.

Item 5C – Fourmile Connector Trail (formerly item 3E on Consent) – 7:46 p.m.

Mike Patton and Heather Swanson provided the presentation on the item. Mr. Patton gave an overview of the switchbacks, construction costs, and visitor conflicts. Heather Swanson then reviewed the habitat impacts. Mr. Patton summarized the Open Space motion made at its special meeting on Wednesday, November 2, 2011.

Council Member Gray asked about the Commissioners response to a connector trail to Betasso. Mr. Patton commented that the County seemed open to the conversation.

Council Member Ageton asked what the length was of the second loop trail on the northern side with the switchbacks. Staff responded that the overall trail was a little under five miles and Mr. Patton wasn't sure whether this included all of the trail or not.

Council Member Morzel asked if the Open Space board discussed anything other than the south bowl loop included in its recommendation. Mr. Patton indicated that this was discussed and considered more as a potential second phase. The Board thought the loop should be built now if it were going to be built.

The public hearing was opened at 8:25 p.m.:

1. Pat Billig, Open Space Board Chair, clarified that the Board's feeling on the switchbacks was that it had been approved and the question was whether to build it all at once or not. It was not discussed in detail. She emphasized that the board members that wanted to keep the settler's park on the table were voting to have more time versus voting to construct it.
2. Rosalyn Gill expressed her support for the Open Space Board on not constructing the Fourmile Connector loop. She also referenced safety concerns raised in a letter from the Fourmile Fire Chief, Brett Gibson.
3. Bruce Vaughn echoed the previous speakers' comments and urged Council to put the Fourmile Connector issue to rest.
4. Sophia Stoller urged Council not to add any additional trails to the Anemone area.
5. Susan Collins, the retired State Archeologist and preservation advocate, urged Council to think about preservation when moving forward.
6. Kevin Shuck urged Council to follow the Open Space Board's recommendation.
7. Brad Davidson who lives on Anemone, spoke to the environmental and habitat values on Anemone and commented on the overflow of users onto his property.
8. Dick Harris urged Council to support the Open Space Board's recommendations.
9. Linda Jourgenson, with Friends of Boulder's Open Space, would like to see further consideration of activity in this area end this evening. Access to Chapman Drive and Betasso would be preferred opportunities.
10. Sue Douglass didn't think Settlers park could handle so many more uses and spoke in opposition to the south bowl trail.
11. Ruth Blackmore on behalf of PLAN Boulder County urged Council not to pursue the proposal from Open Space regarding the south bowl but did support the rest of the recommendations.
12. Shaun McGrath urged Council to continue to work on finding the true connectors that mountain bikers seek.
13. Doug Schnitzpahn agreed with Mr. McGrath's comments and urged council to find ways to make Boulder a real central place for mountain bikers to access larger trails.
14. Sue DeRose representing FIDOS raised concern about increased volume at the trailheads and spoke to voice and sight control on corridor.
15. Jason Vogel commented that he did not think the work was done and urged Council to say yes to finding connectors throughout the community and commit to making this a priority over the next two years.
16. Mike Barrow, Lafayette resident, spoke in support of dogs off leash on open space and supported the previous speakers' comments.
17. Mike Browning supported closing out the issue and moving on to other TSA issues. He supported connector trails to the west.
18. Stephen Keenan agreed with Council's original motion.

There being no further speakers the public hearing was closed at 9:14 p.m.

Council Member Cowles moved, seconded by Morzel to approve the Open Space Board recommendations 1 (a) and (b), 2 and 3 with option 4 no longer considered - to read as follows:

1. Emphasize the importance of the overarching issue of “connecting” local OSMP lands with more distant OSMP and County Open Space lands for the benefit of all users in order to increase access and safety including:
 - a. Further consideration of extending the Boulder Creek Path to the current Betasso trail-head in Boulder Canyon.
 - b. Further consideration of an alternative connection to Betasso from the intersection of Boulder and Fourmile Canyons
2. Oppose a connector to Fourmile Canyon due to environmental, neighborhood and safety impacts.
3. Oppose a connection from the Dome area due to the environmental impacts and limited practical use.
4. Look broadly at connection opportunities and focus on cooperation with United States Forest Service, the State of Colorado, Boulder County and private landowners.
5. Not construct switchbacks on the north side of Anemone Hill connecting the Sunshine Canyon trail to the ridge loop.

Council Member Morzel would like to see the North and East TSA completed, and see further consideration of the Betasso/Boulder Creek Path connection which would include seeking grant opportunities.

Council Member Appelbaum offered an amendment to the motion, seconded by Gray to take the switchbacks that connect Sunshine Canyon trail to the Ridge Loop be taken off the plan. The motion carried 7:2; Becker and Wilson opposed. 9:46 p.m.

Vote was taken on the main motion. The motion carried unanimously 9:0. at 9:55 p.m.

6. **MATTERS FROM THE CITY MANAGER:** - None.

7. **MATTERS FROM THE CITY ATTORNEY:** - None.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:** - 9:55 p.m.

A. **POTENTIAL CALL-UPS:**

1. **COMBINED SITE AND USE REVIEW FOR DEPOT SQUARE. INFORMATION PACKET DATE: NOVEMBER 2, 2011. LAST OPPORTUNITY FOR CALL-UP IS NOVEMBER 15, 2011. APPROVED 6-0 (W. WILLIFORD RECUSED).**

No action was taken on this item.

2. **VACATION OF A 690 SQUARE FOOT PORTION OF AN EXISTING UTILITY EASEMENT AT THE CROSSROADS COMMONS SHOPPING CENTER (2905 PEARL STREET) FOR RELOCATED FIRE HYDRANT. INFORMATION**

PACKET DATE: NOVEMBER 2, 2011. LAST OPPORTUNITY FOR CALL-UP IS NOVEMBER 8, 2011. STAFF APPROVAL.

No action was taken on this item.

B. CONSIDERATION OF A MOTION REGARDING 2011 PERFORMANCE EVALUATIONS, AND PERFORMANCE BASED SALARY ADJUSTMENTS FOR THE CITY MANAGER, CITY ATTORNEY, AND MUNICIPAL JUDGE. – 9:56 P.M.

Council Member Appelbaum and Deputy Mayor provided a brief overview on the item as members of the Council Employee Evaluation Committee.

Council Member Gray moved, seconded by Karakehian to award a 3.5% merit increase to the City Attorney.

Council Member Appelbaum moved, seconded by Wilson to award a 3.5% merit increase to the City Manager.

Council Member Appelbaum moved, seconded by Ageton to award a 3% merit increase to the Municipal Judge.

C. NOD OF FIVE TO DRAFT AMENDMENTS TO DRUG TESTING ORDINANCE. – 10:40 P.M.

There was a nod of five from Council to direct the City Attorney to draft amendments to the drug testing ordinance.

9. PUBLIC COMMENT ON MATTERS: (15 min.) Public comment on any motions made under Matters.

10. FINAL DECISIONS ON MATTERS: Action on motions made under Matters.

Vote was taken on the motion to award a 3.5% merit increase to the City Attorney. The motion carried 8:0; Wilson recused.

Vote was taken on the motion to award a 3.5% merit increase to the City Manager. The motion carried unanimously 9:0.

Vote was taken on the motion to award a 3% merit increase to the Municipal Judge. The motion carried unanimously 9:0.


11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION
REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 10:53 P.M.

APPROVED BY:


Matthew Appelbaum,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk